

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for November 23, 2005 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #05055

PROPOSAL: A request for a special permit to expand a nonconforming use to increase the area where the sale of alcoholic beverages for consumption off the premises is allowed for Russ's B&R grocery store.

CONCLUSION: The area of the building expansion is at the west and northwest portions of the building. However, the expansion does not affect the items of nonconformance, which are that the use is less than 100' to a residential district, and that it has doors which face onto and are within 150' of a residential district. The expansion does not make the use more nonconforming, and the impact should not be significant.

<u>RECOMMENDATION:</u>	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached ownership certificate.

LOCATION: 1709 Washington Street

EXISTING ZONING: B-3 Commercial, R-6 Residential

EXISTING LAND USE: Commercial

SURROUNDING LAND USE AND ZONING:

North:	Commercial, Residential	R-2, B-3
South:	Commercial, Residential	R-2, B-3
East:	Residential	R-6
West:	Commercial	B-3

HISTORY:

Nov 2005 Special Permit #1583B requested a 6,765 square foot parking lot in a residential zoning district to serve existing grocery store. The application is scheduled for consideration by the Planning Commission at the November 9, 2005 hearing.

- Mar 2004 Special Permit #1583A requested a parking lot over this same parcel. Planning staff recommended denial, Planning Commission recommended denial 5-3, and a motion to approve by the City Council lost 3-4.
- Jun 1997 Administrative Amendment #97054 to Special Permit #1583 approved a seasonal fireworks tent located within the parking lot.
- Nov 1995 Special Permit #1583 approved a parking lot located on Lots A, E, 9, and 10, which are zoned residential, to serve the adjacent grocery store. Planning staff recommended denial.
- Mar 1986 Special Permit #1052B approved the reconfiguration of the parking lot in conjunction with the expansion of the adjacent grocery store. This permit covers the area of Special Permit #640 and those portions of #1052 and #1052A that were still zoned R-6. Planning staff recommended conditional approval.
- Nov 1985 Change of Zone #2207 approved changing the zoning on nearby property from R-6 Residential to B-3 Commercial for an 11' wide strip to accommodate a canopy over a newly remodeled grocery store entrance. This re-zoned portions of Special Permits #1052 and #1052A to B-3.
- Oct 1984 Special Permit #1052A approved the use of the east half of Lot 6, which was zoned residential, as an off-street parking lot for the adjacent grocery store. Planning staff recommended conditional approval.
- Jul 1983 Special Permit #1052 approved the use of a part of that portion of Lot 6 zoned residential as off-street parking, with 0' front yard setback, for the adjacent grocery store. Planning staff recommended denial due to adverse impact on nearby residential uses.
- May 1979 The zoning update changed the designation of this property from D Multiple Dwelling to R-6 Residential.
- Oct 1975 Special Permits #640 and #640 reinstated by City Council. Applicant brought property into compliance with special permit conditions.
- Oct 1975 Special Permits #640 and #640A revoked by City Council due to non-compliance with conditions of special permit.
- Aug 1975 Special Permit #220 revoked. Since its issuance, part of Lot 2 had been rezoned to a district that allowed parking, and Special Permit #640 had been issued over the remainder of Lot 2, which superceded this permit.

- Jul 1975 Special Permit #640B denied the reduction of the front yard setback along Washington Street for the parking lot.
- Jan 1974 Special Permit #640A approved the reduction of the front yard setback from 20' to 0' along 18th Street for the parking lot.
- Oct 1973 Special Permit #640 approved the use of Lot 1, part of Lot 2, and 20' of vacated 18th Street right-of-way, all zoned residential, as off-street parking for the adjacent business. Planning Staff recommended conditional approval.
- Sep 1972 Change of Zone #1238 approved changing the zoning on nearby property from D Multiple Dwelling to I Commercial for the enlargement of an existing grocery store and parking lot. City Council removed the parcel containing the parking from this application, stating a special permit was more appropriate than rezoning.
- Nov 1961 Special Permit #220 approved the use of Lot 2, a residential lot, as off-street parking for the adjacent business.
- Sep 1956 Special Permit #100 approved the use of Lot 3, a residential lot, for off-street parking for the adjacent business.

COMPREHENSIVE PLAN SPECIFICATIONS:

The Land Use Plan shows this property as Commercial. (F 26)

Guiding Principles applying to all forms of Commerce Centers include: (F 42)

Commerce Centers should develop as compact clusters or hubs with appropriate site design features to accommodate shared parking, ease of pedestrian movement, minimize impacts on adjacent areas, and possess a unique character.

New or established commercial uses should not encroach upon, or expand into, existing neighborhoods.

The most intensive commercial uses, such as restaurants, car washes, grocery stores, gasoline/convenience stores and drive thru facilities should be located nearer to the major street or roadway and further from the residential area. Citizens of the community have become increasingly concerned about "light pollution" and its effects upon neighborhoods and the environment. Lighting, dumpsters, loading docks and other service areas should be shielded from the residential area.

Guiding Principles for Existing Commercial Centers (F 49)

Maintain and encourage retail establishments and businesses that are convenient to, and serve, neighborhood residents, yet are compatible with, but not intrusive upon residential neighborhoods.

Expansion of existing commercial and industrial uses should not encroach on existing neighborhoods and must be screened from residential areas.

The priority in older areas should be on retaining areas for residential development. Prior to approving the removal of housing in order to provide for additional parking to support existing centers, alternatives such as shared parking, additional on-street parking or the removal of older commercial stores should be explored.

Guiding Principles for Existing Neighborhoods (F 68)

Encourage a mix of compatible land uses in neighborhoods, but similar uses on the same block face. Similar housing types face each other: single-family faces single-family, change to different use at rear of lot.

Commercial parking lots should not intrude into residential areas where residential uses predominate a block face.

More intense commercial uses (gas stations, big box stores, car washes, fast food, etc.) may not be compatible due to impact on nearby housing.

Expansion in existing centers should not encroach, or expand to encroach, on existing neighborhoods, and commercial areas must be screened from residential areas.

BACKGROUND: The store is undergoing a remodel which has resulted in an approximately 1,330 square foot expansion to the 34,000 square foot grocery store. Because alcohol is allowed anywhere within the grocery store, both an amendment to the State liquor license and a special permit are required for alcohol to be allowed in the area of the expansion.

The sale of alcohol is considered a nonconforming use because it both pre-exists 1994 (the date when special permit provisions regulating the sale of alcohol were adopted), and because it does not comply with two location requirements [Section 27.63.685(c)(g)] for a special permit to allow the sale of alcohol. First, the zoning district boundary between R-6 and B-3 separates the grocery store from the parking lot, and the store is less than 100' away from the R-6. Second, the entrance doors face the R-6 residential district but are less than 150' away from it.

Because the use is nonconforming, a special permit per Lincoln Municipal Code (LMC) Section 27.63.280 Expansion of Nonconforming Uses must be approved for alcohol to be allowed in the expanded areas of the store.

ANALYSIS:

1. SPECIAL PERMIT REQUIREMENTS FOR EXPANSION OF NONCONFORMING USES PER LMC 27.63.280.

(a) Effects on adjacent property, traffic, city utility service needs.

The use is considered nonconforming due to the proximity of the R-2 and R-6 districts. For alcohol to be allowed in the expanded areas of the store, a special permit to allow the expansion of a nonconforming uses must be approved. The remodel is well underway and will be completed in the near future. The building footprint of the store is largely unaffected except at the northwest corner and west side of the building, areas which are both adjacent to B-3 commercial zoning. The store expansion did not bring the store closer to any of the adjacent residential district, and it did not move the entrance doors, which are the items of noncompliance, any closer to the residential districts. The expansion results in a larger store with more floor area where customers are allowed to possess alcohol, but it does not increase the nonconformity of the use.

(b) Density of land use zoning for the subject property and adjacent property.

The expansion of the store is all located in the B-3 district and is in compliance with the other applicable requirements of LMC. The impact of a 1,330 square foot expansion is not anticipated to be significant at this location.

(c) The degree of hardship upon the applicant which would be caused by failure to grant such a permit.

Anywhere alcohol is stored or in the possession of consumers prior to consumption inside the grocery store must be authorized by the State liquor license and special permit. If this special permit is not approved, the applicant must make provisions to limit alcohol to those areas where it was allowed prior to the expansion. The area would need to be walled-off and made inaccessible for the possession or storage of alcohol.

3. DEPARTMENT RESPONSES:

POLICE: The Police Department had no objection to this request.

PUBLIC WORKS : The Public Works Department had no objection to this request.

CONDITIONS:

Site Specific:

1. This approval permits the expansion of the area designated for the sale of alcohol for consumption on the premises as shown on the site plan.

General:

2. Before receiving building permits:

2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department for review and approval.

2.1.1 Five copies of a revised site plan showing the following revisions:

2.1.1.1 Show lot lines and label lots consistent with the legal description in the ownership certificate.

2.1.1.2 Delineate the 'Licensed Premises' per the State liquor license.

2.1.1.3 Delineate the area of the proposed expansion.

2.1.1.4 Correct the title block which indicates that the site plan is for 'Parking Lot Expansion'.

2.1.1.5 Show the north arrow pointing north.

2.2 The construction plans comply with the approved plans.

Standard:

3. The following conditions are applicable to all requests:

3.1 Before the sale of alcohol for consumption off the premises, all development and construction is to comply with the approved plans.

3.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

3.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special

permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

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Planner
November 7, 2005

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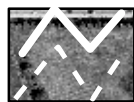
2005 aerial

Special Permit #05055 S. 17th St. & Washington St.

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 36 T10N R06E



Zoning Jurisdiction Lines

City Limit Jurisdiction

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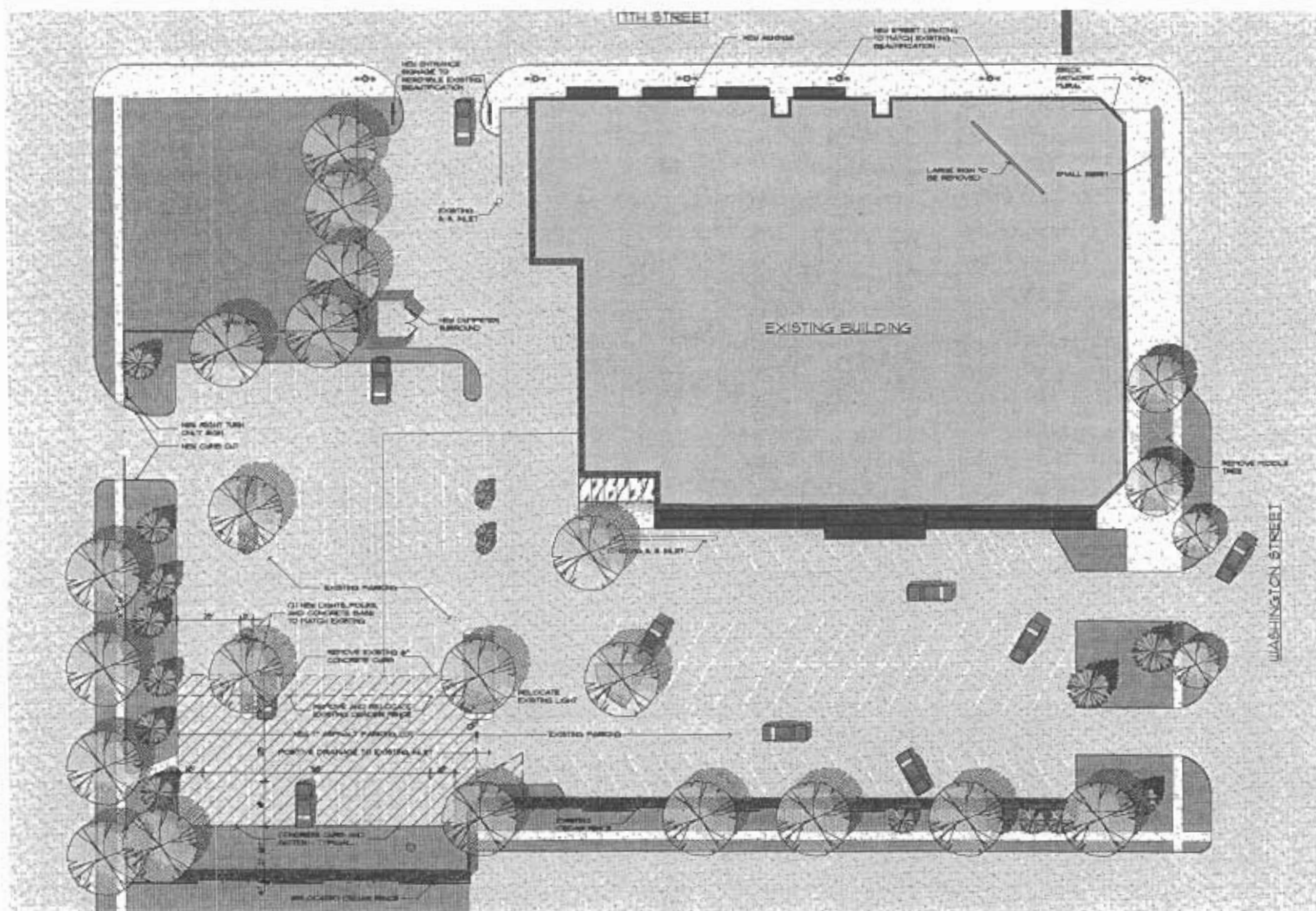
A St

S 14th St

S 27th St



Van Dorn St




SITE PLAN
 SCALE: 1" = 40'-0"

RUSS'S-B&R I.G.A.
PARKING LOT EXPANSION
 1709 WASHINGTON ST.
 LINCOLN, NEBRASKA



HUTCHINSON
ARCHITECTS, P.C.

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JOB NO: 05-007
 DATE:
 REVISED:

DRAWN BY:

SHEET
A-1

The subject property has been operating as a neighborhood grocery store since 1962 and has undergone four major expansions to better serve the community. The liquor store has been in operation for approximately 39 years as part of the existing building. It originally had a separate entrance on the west side. The liquor store was incorporated into the store structure in the expansion and remodel that occurred in 1987. The current liquor department has been in the same store space for almost 20 years.

The 2005 remodel and expansion has been part of a neighborhood revitalization initiative that includes many streetscape improvements as well as interior renovations. This latest store expansion was only 1,330 square feet but the improvements have been significant both in cost and facility enhancements. These improvements have been welcomed whole heartedly by the neighborhood association and the neighbors.

RAYBOULD PARTNERS, LTD.
CERTIFICATE OF OWNERSHIP
SCHEDULE

Lots One (1), Three (3), Four (4) and Six (6), Block Three (3), Hurlbut's Subdivision, together with the vacated East-West alley in said Block Three (3), and the West Twenty (20) feet, of vacated South 18th Street, adjacent to Lots One (1) and Six (6), in said Block Three (3), Lincoln, Lancaster County, Nebraska; and

Lots A, B and E, Miller and Winship's Subdivision (a subdivision within Lots Eleven (11), Twelve (12) and Thirteen (13), W.W. Holmes Subdivision), Lincoln, Lancaster County, Nebraska; and

Lots Nine (9) and Ten (10), W.W. Holmes Subdivision, Lincoln, Lancaster county, Nebraska; and

The North 100 feet of Lot 5, Block 3, A. Hurlbut's Subdivision, Lincoln, Lancaster County, Nebraska; and

Lot 2, Block 3, A Hurlbut's Subdivision of Lots 3 and 4 in the Northwest Quarter of Section 36, Township 10, Range 6 East of the 6th P.M., Lincoln, Lancaster county, Nebraska; and

The South 42 Feet of Lot 5, Block 3, A. Hurlbut's Subdivision of Lots 3 and 4, in the Northwest Quarter of Section 36, Township 10, Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska.